



VILLAGE OF SAUGERTIES  
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## Zoning Board of Appeals Meeting Minutes March 26, 2019

**Present:** Board Members Scott Campbell, Joe Gavner, Mary Frank, Sam Fisco, Ed Quirk, Liaison Jeff Helmuth, Building Inspector/Code Enforcer Eyal Saad, Attorney Ben Neidl  
Others : Robert Elmendorf, Judy Elmendorf, Vincent Ruby, Mary Leahy, JoAnne Ostrander, Mike Moriello, John Joseph, Barry Mendenbach, Bill Smith

**Chairman Campbell** called the meeting to order at 7:00pm.

**Chairman Campbell presented minutes of the February 26, 2019 Zoning Board meeting. Scott Campbell made a motion to accept the minutes of the February 26, 2019 Zoning Board meeting as presented. The motion to accept the minutes of the February 26, 2019 Zoning Board meeting as presented was seconded by Joe Gavner. The motion carried unanimously.**

**Chairman Campbell** stated that the Public Hearing regarding the application for an Area and Use Variance by Joanne Ostrander and Southern Realty & Development, LLC - Auto Zone at 298 Ulster Avenue was closed at the February 26<sup>th</sup> Zoning Board meeting. No public comment will be heard or accepted at this meeting. The Zoning Board members must consider the 4 elements of the use variance that the applicant must prove have caused the unnecessary hardship. Each board member is to state how they stand on each element. By law a decision is required within 62 days. There are still 30 days remaining. By the end of the discussion there should be a decision as to grant or deny the variance. A resolution, granting or denying, will then be drafted for approval at the next ZBA meeting on April 23<sup>rd</sup>.

**Mike Moriello** offered to answer any questions the members may have.

**John Joseph** remarked that a local broker, Murphy Realty Group, valued the house as if it remained residential, whether it was sold, rented or improved and determined that the property would be financially underwater either way.

1. *That the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.*

Four of the five members agreed that the owner could not realize a reasonable return based on the evidence provided.

2. *That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.*

All members agreed that the property is unique in that it is located in 4 different zones and 2 municipalities.

3. *That the requested use, if granted, will not alter the essential character of the neighborhood.*

All members agreed that the character of the area would not change since it is primarily commercial now. Further approvals from the Planning Board would dictate and restrict the look of the project. And it would be an improvement compared to what is there now.

4. *That the alleged hardship has not been self-created.*

The members discussed whether or not the hardship was self-created. The point that the property would be more valuable as a rental now had the owner better maintained the property was mentioned and the undesirable location due to the increase in noise from the trains gas and fuel companies. Even if the property would be renovated, it mostly would be difficult to rent. The construction of a rental on the residential portion of the lot would not result in a reasonable return. The area is less residential than when the property was purchased. Four of the five members agreed that the hardship was not self-created.

The final decision is based on a majority not a unanimous decision on the 4 elements.

**Mary Frank** stated that the letters of public support and or outcry as well as the competition among similar businesses cannot override the requirements of the variances.

**Barry Mendenbach** of Mendenbach & Eggers Civil Engineers & Land Surveying, PC presented the site plan for the Auto Zone project and explained the use variance. The area variance would not be necessary if this use variance for the driveway and parking spaces in the R1 zone was allowed. All members agreed that the use variance with the driveway and parking in the R1 zone would be best.

**Joe Gavner made a motion to grant the Use Variance for Joanne Ostrander 298 Ulster Avenue and Southern Realty & Development, LLC - Auto Zone. The motion to grant the Use Variance for Joanne Ostrander and Southern Realty & Development, LLC - Auto Zone at 298 Ulster Avenue was seconded by Sam Fisco. The Use Variance was approved by a 4 to 1 vote.**

The resolution memorializing the decision to grant the Use Variance will be approved at the next ZBA meeting on April 23<sup>rd</sup>.

**Jeff Helmuth** questioned whether or not there is a market study regarding the number of parking spaces that Auto Zone Corp. would require for the size of the building. Bill Smith, Auto Zone stated that it is close to the number that would be required.

**Scott Campbell made motion to close the Zoning Board Meeting of March 26. Sam Fisco seconded the motion to close the Zoning Board meeting March 26 at 7:40 pm.**

**The next scheduled Zoning Board Meeting will be April 23 at 7:00pm.**

Respectfully submitted,

Lisa Mayone

Village Clerk

4/1/19